

CONTRACT #5
RFS # 329.01-148

Department of Correction

VENDOR:
Correctional Counseling, Inc.



RECEIVED

NOV 05 2007

FISCAL REVIEW

STATE OF TENNESSEE
DEPARTMENT OF CORRECTION
3rd FLOOR RACHEL JACKSON BUILDING
320 SIXTH AVENUE NORTH
NASHVILLE, TENNESSEE 37243-0465
OFFICE (615) 741-1000 EXT. 8104 ! FAX (615) 741-4605

MEMORANDUM

TO: Robert Barlow
Department of Finance and Administration
Office of Contracts Review

FROM: Bryce Grissom *BG*
Contracts Administration

THROUGH: Catherine Posey, Assistant Commissioner for Administrative Services *C. Posey*

DATE: October 30, 2008

SUBJECT: Request for Non-competitive Amendment Two

The Department of Correction respectfully requests approval of the enclosed non-competitive amendment request.

RFS No.:	329.01-148
Contract No.:	FA-05-16269-00
State Agency:	Department of Correction
Contractor:	Correctional Counseling, Inc.(CCI)
Contract Term:	03/01/05 – 02/28/10

The purpose of this amendment is to amend the Scope of Services in this contract due to the passage of House Bill #3989 signed May 12, 2006 by Governor Bredesen regarding the way in which the Technical Violators' program operates. The new legislation requires a structured environment based upon a Therapeutic Community Model. In addition, this amendment updates the Department of Correction contact information due to a new Substance Abuse Director in the Department of Correction.

There are no proposed changes in Amendment Two related to the term or cost of the existing contract.

If you have any questions, please call me at 741-1000 ext. 8104.

Thank you.

✓ C: Fiscal Review Committee

REQUEST: NON-COMPETITIVE AMENDMENT

APPROVED

RECEIVED

NOV 05 2007

Commissioner of Finance & Administration

Date:

FISCAL REVIEW

EACH REQUEST ITEM BELOW MUST BE DETAILED OR ADDRESSED AS REQUIRED.

1) RFS #	329.01-148	
2) State Agency Name :	Department of Correction	
EXISTING CONTRACT INFORMATION		
3) Service Caption :	Group Counseling and Transitional Release Services of Inmates	
4) Contractor :	Correctional Counseling, Inc.	
5) Contract #	FA-05-16269-00	
6) Contract Start Date :	3/1/2005	
7) <u>Current</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :	2/28/2010	
8) <u>Current</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :	\$642,812	
PROPOSED AMENDMENT INFORMATION		
9) <u>Proposed</u> Amendment #	Two	
10) <u>Proposed</u> Amendment Effective Date : (attached explanation required if date is < 60 days after F&A receipt)	2/1/2008	
11) <u>Proposed</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :	2/28/2010	
12) <u>Proposed</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :	\$642,812	
13) Approval Criteria : (select one)	<input checked="checked" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state <input type="checkbox"/> only one uniquely qualified service provider able to provide the service	
14) Description of the Proposed Amendment Effects & Any Additional Service :		
The proposed amendment covers non-material service delivery changes based on the Department's effort to employ best practice methodology in treating offenders. There are no cost changes, no changes in the maximum liability and no changes in the contract term.		

15) Explanation of Need for the Proposed Amendment :

The passage of House Bill #3989 signed May 12, 2006 by Governor Bresden brought about significant changes in the way in which the Technical Violators program operates. The new legislation requires a structured environment based upon a Therapeutic Community Model.

16) Name & Address of Contractor's Current Principal Owner(s) :
(not required if proposed contractor is a state education institution)

Kenneth D. Robinson, Correctional Counseling, Inc., 3155 Hickory Hill Road, Memphis, Tennessee 38115

17) Documentation of Office for Information Resources Endorsement :
(required only if the subject service involves information technology)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

18) Documentation of Department of Personnel Endorsement :
(required only if the subject service involves training for state employees)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

19) Documentation of State Architect Endorsement :
(required only if the subject service involves construction or real property related services)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :

Correctional Counseling, Inc. has been the provider of this service at Wayne County Boot Camp since July of 1999. To continue under the same contract with continuity of service to inmates at Wayne County Boot Camp with no increase in costs is the best course of action for TDOC.

21) Justification for the Proposed Non-Competitive Amendment :

There are no material changes to the contract, only changes which address the current legislation and the implementation of best practices.

REQUESTING AGENCY HEAD SIGNATURE & DATE :

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)

Agency Head Signature

Date

31 OCT 07

**AMENDMENT TWO
TO FA-05-16269-00**

This Contract Amendment is made and entered by and between the State of Tennessee, Department of Correction, hereinafter referred to as the "State" and Correctional Counseling, Inc., hereinafter referred to as the "Contractor." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Contract is hereby amended as follows:

1. The text of Contract Section A is deleted in its entirety and replaced with the following:

A. SCOPE OF SERVICES:

The Contractor shall provide Moral Recognition Therapy services at Wayne County Technical Violator Diversion Program Therapeutic Community (WCTVDP-TC) located at the annex. Services will be provided through two substance abuse counselors, with at least one of those counselors being licensed or certified in the field of addiction treatment. These are full time positions, 37.5 hours per week (30 minutes unpaid for dinner) Monday through Friday.

A.1. General Program Requirements:

- a. The Contractor shall implement a six (6 minimum) – (7 maximum) month Moral Recognition Therapy (MRT) Program designed for parole technical violators assigned to the Diversion Program's Therapeutic Community. These sessions will be held in the annex building Monday - Thursday evenings from the hours of 5:30 to 8:30 p.m.
- b. The Contractor will establish set office times (10:00 to 6:00 p.m.) on Fridays to complete paperwork, conduct individual sessions (as needed), discuss Phase movement, review treatment homework assignments or any other administrative treatment related functions.
- c. The Contractor shall design the MRT program to support the modified Therapeutic Community at WCTVDP.
- d. The Contractor shall participate in Multidisciplinary team meetings as they are scheduled with designated institutional staff.
- e. The Contractor shall complete and review with the inmate a Discharge Summary and Parole Progress Report prior to release.
- f. In concert with the State, assist with drug testing on MRT clients.
- g. The Contractor shall be responsible for completing and submitting all required state and institutional program forms as approved by the State Director of Substance Abuse Services.

A.2. Treatment Services

There are three primary service programs offered at WCTVDP. The three program tracks include: Educational / Vocational Readiness, Substance Abuse and Moral Recognition Therapy. Inmates are assessed upon admission into the program to determine which program best addresses their needs. The Contractor shall facilitate the Moral Recognition Therapy program for the WCTVDP-TC program inmates located in the annex. The program will be designed to serve approximately 200 inmates on an annual basis. The Program shall include the following three phases:

- a. Phase I – Orientation. Each offender shall receive a minimum of twenty (20) hours of therapy. Program participants are oriented to the current provider's modified Therapeutic Community Model and program rules and regulations. Therapeutic

activities may be divided between community service work, TC work crews, GED, or treatment educational or group counseling sessions. In Phase 1, the Contractor will be responsible for completing assessments, treatment plans, and conducting evening and individual sessions (as needed).

Phase II – Main Treatment. Each offender shall receive a minimum of thirty (30) hours of therapeutic activities per week. Therapeutic activities may be divided between: community service, TC work crews, treatment educational or group counseling sessions, individual and group treatment, academic and vocational programming, (if available) and 12 step meeting attendance (if available). In Phase 2, the Contractor shall be responsible for the delivery of MRT sessions in the evening and update participant files (as required by policy).

Phase III – Re-Entry. The primary focus of this phase shall be on addressing transitional issues. All offenders are required to have a Discharge Summary completed during this Phases which will include the following information: housing arrangements, family/marital plans, legal issues, education and employment concerns and continued treatment issues (if any). Re-entry sessions are conducted by state staff. Each offender shall receive a minimum of ten (10) hours of documented therapeutic activities per week. Therapeutic activities may include any one or a combination of the following activities: community service, TC work crews, individual and group counseling, vocational skills development, and 12 step meeting attendance (if available). In Phase 3, the Contractor shall be responsible for providing discharge recommendations, completion of Discharge Summary and Parole Progress report.

- b. The Contractor shall ensure that all MRT program participants have an individualized treatment plan that is completed within 30 days of acceptance into the program. The treatment plan shall include all items as required by policy.
- c. The Contractor shall be responsible for facilitating MRT four (4) evenings per week. These sessions will be held from 5:30 to 8:30 p.m. every Monday through Thursday
- d. The Contractor shall use intake and other assessment instrument approved by the State's Director of Substance Abuse Services.
- e. In concert with institutional staff, the Contractor shall assist with any/all related drug screens for MRT program participants.
- f. Both counselors shall be responsible for remaining in compliance with all TDOC and WCTVDP-TC Policies and Procedures.
- g. Both counselors shall participate in annual on-site TDOC Training, along with any additional Mental Health related on-site training provided. Hours in excess of the counselor's regular weekly schedule, due to training, will be taken as comp time during the same week the hours were earned.

2. The text of Contract Section E.2. is deleted in its entirety and replaced with the following:

- E.2. Communications and Contacts.** All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The State:

Kenneth L. Osborne, Director of Substance Abuse
Department of Correction
4th Floor, Rachel Jackson Bldg.
320 Sixth Avenue North
Nashville, TN 37243-0465
Telephone: 615-741-1000 ext. 8195
Fax: 615-532-3065

The Contractor:

Kenneth D. Robinson, President
Correctional Counseling, Inc.
3155 Hickory Hill Rd.
Memphis, TN 38115
Telephone: (901) 360-1564
Fax: (901) 365-6146

The revisions set forth herein shall be effective February 1, 2008. All other terms and conditions not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF:

CORRECTIONAL COUNSELING, INC.:

KENNETH D. ROBINSON, PRESIDENT

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF CORRECTION:

GEORGE M. LITTLE, COMMISSIONER

DATE

APPROVED:

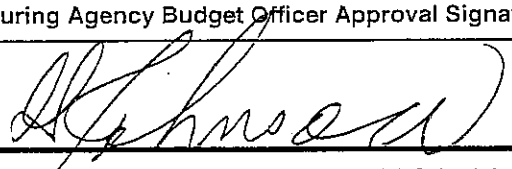
M. D. GOETZ, JR., COMMISSIONER
DEPARTMENT OF FINANCE AND ADMINISTRATION

DATE

JOHN G. MORGAN, COMPTROLLER OF THE TREASURY

DATE

C O N T R A C T S U M M A R Y S H E E T

RFS Number: 329.01-148		Contract Number: FA-05-16269-01	
State Agency: Correction		Division: Rehabilitative Services	
Contractor		Contractor Identification Number	
Correctional Counseling, Inc.		<input type="checkbox"/> V- 62141114500 <input type="checkbox"/> C-	
Service Description			
Group Counseling and Transitional Release Services			
Contract Begin Date		Contract End Date	
03/01/05		02/28/10	
Allotment Code	Cost Center	Object Code	Fund
329.01	46	084	11
		<input type="checkbox"/> on STARS	
FY	State Funds	Federal Funds	Total Contract Amount (including ALL amendments)
2005	39,560.00		39,560.00
2006	120,263.00		120,263.00
2007	125,074.00		125,074.00
2008	130,076.00		130,076.00
2009	135,280.00		135,280.00
2010	92,559.00		92,559.00
Total:	642,812.00		642,812.00
CFDA #	Check the box ONLY if the answer is YES:		
State Fiscal Contact		Is the Contractor a SUBRECIPIENT? (per OMB A-133)	
Name:	Garland Johnson	Is the Contractor a VENDOR? (per OMB A-133)	
Address:	3 rd Floor, Rachel Jackson Bldg.	Is the Fiscal Year Funding STRICTLY LIMITED?	
Phone:	741-1000 ext. 3002		
Procuring Agency Budget Officer Approval Signature		Is the Contractor on STARS?	
		Is the Contractor's FORM W-9 ATTACHED?	
		Is the Contractors Form W-9 Filed with Accounts?	
COMPLETE FOR ALL AMENDMENTS (only)		Funding Certification	
	Base Contract & Prior Amendments	This Amendment ONLY	Pursuant to T.C.A., Section 9-6-113, I, M. D. Goetz, Jr., Commissioner of Finance and Administration, do hereby certify that there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred.
END DATE →			
FY:			
FY:			
FY:			
FY:			
FY:			
Total:			

NO CHANGE TO CONTRACT
SUMMARY SHEET AS A RESULT
OF PROPOSED AMENDMENT TWO

**AMENDMENT ONE
TO CONTRACT FA051626900**

This Contract, by and between the State of Tennessee, DEPARTMENT OF CORRECTION, hereinafter referred to as the State, and CORRECTIONAL COUNSELING, INC., hereinafter referred to as the Contractor, is hereby amended as follows:

Delete Section Preamble in its entirety and insert the following in its place:

This Contract, by and between the State of Tennessee, **DEPARTMENT OF CORRECTION**, hereinafter referred to as the State, and **CORRECTIONAL COUNSELING, INC.**, hereinafter referred to as the Contractor, is for the provision of Group Counseling and Transitional Release Services, as further defined in the "SCOPE OF SERVICES."

The Contractor is A FOR PROFIT CORPORATION. The Contractor's address

3155 Hickory Hill Road
Memphis, TN 38115

The Contractor's place of incorporation or organization is TENNESSEE.

The other terms and conditions of this contract not amended hereby shall remain in full force and effect.

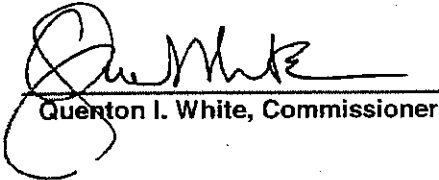
IN WITNESS WHEREOF:

CORRECTIONAL COUNSELING INC.:


Kenneth D. Robinson, President

3/22/05
Date


DEPARTMENT OF CORRECTION:


Quenton I. White, Commissioner

3/31/05
Date

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:


M. D. Goetz, Jr., Commissioner

APR 12 2005

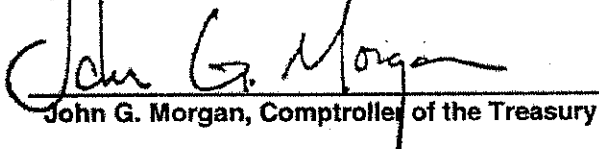
Date

DEPARTMENT OF PERSONNEL:

N/A
Randy C. Camp, Commissioner

Date

COMPTROLLER OF THE TREASURY:


John G. Morgan, Comptroller of the Treasury

4/14/05

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
TENNESSEE DEPARTMENT OF CORRECTION
AND
CORRECTIONAL COUNSELING, INC.**

This Contract, by and between the State of Tennessee, **Department of Correction**, hereinafter referred to as the "State" and **CORRECTIONAL COUNSELING, INC.**, hereinafter referred to as the "Contractor," is for the provision of Group Counseling and Transitional Release Services, as further defined in the "SCOPE OF SERVICES."

The Contractor is A FOR NONPROFIT CORPORATION. The Contractor's address is:

3155 Hickory Hill Road
Memphis, TN 38115

The Contractor's place of incorporation or organization is TENNESSEE.

A. SCOPE OF SERVICES:

The Contractor shall provide institutional alcohol and drug group counseling services at Wayne County Boot Camp through the services of two substance abuse counselors, with at least one of those counselors being licensed or certified in the field of addiction treatment. Work hours for both counselors will consist of Monday through Friday, from 12:30 p.m. to 8:30 p.m. (30 minutes unpaid for dinner), with schedules as outlined herein.

A.1. General Population:

- a. Each counselor will facilitate one Moral Recognition Therapy (MRT) Substance Abuse Treatment Program. This program will consist of a minimum of 32 sessions at three (3) sessions per week. These sessions will be held in the annex building every Tuesday, Wednesday, and Thursday evenings from the hours of 5:30 to 8:30 p.m. Additional sessions will be at the counselor's discretion pertaining to individual needs.
- b. Each counselor will facilitate one MRT Anger Management Treatment Program. This program will consist of anger management and domestic violence components for a minimum of 12 sessions at one (1) session per week. This session will be held in the annex building every Monday evening from the hours of 5:30 to 8:30 p.m.
- c. Each counselor will establish, at a minimum, four (4) hours of set office time per week in order to assist clients in the areas of relapse prevention, family relations, codependency, knowledge of self-help groups and discharge/re-entry planning. Office time may be split into one-hour blocks that are conducive to various inmate needs, work schedules and available office space.
- d. One counselor will facilitate one (1) Anger Management Support/Aftercare Group per week. Another counselor will facilitate one (1) Substance Abuse Support/Aftercare Group per week. These group sessions will be held in the annex building every Friday evening from the hours of 5:30 to 8:30 p.m.
- e. Both counselors will participate in Mental Health M-Team Meetings. Meetings will be scheduled each Thursday afternoon from 1:00 to 2:00 p.m. The counselors, in conjunction with institutional staff, shall develop a treatment plan for all MRT Anger Management and MRT Substance Abuse Program participants.
- f. For those inmates that have been identified as "high-risk", the contract counselor in conjunction with the institutional staff shall prepare a recommendation to the parole board for continued community-based treatment including: type treatment modality, frequency of contact,

participation in drug testing, attendance to self-help groups and any other ancillary support services needed.

- g. Both counselors will conduct intake, random, and exit program drug screens only on MRT Substance Abuse Program Clients.
- h. Both counselors shall be responsible for completing and submitting all required state and institutional program forms.

A.2. Special Alternative Incarceration Unit (SAIU)

The Contractor shall facilitate a chemical dependency awareness program for the SAIU Program inmates. The program will be designed for approximately 200 inmates on an annual basis and consist of three (3) separate two (2) hour platoon classes per week, as scheduled herein.

- a. A counselor shall be responsible for facilitating three (3) two-hour drug dependency awareness classes for the SAIU Program per week. These classes will be held from 2:00 to 4:00 p.m. every Monday, Tuesday and Wednesday either in the "B" building day room or on the squad bay.
- b. No treatment plans or program drug screens will be required by contract counselors as this is not a treatment program and institutional staff shall conduct any/all related drug screens for the SAIU Program.
- c. Both counselors shall be responsible for remaining in compliance with all TDOC and WCBC Policies and Procedures.
- d. Both counselors shall participate in three full days of TDOC Annual On-Site Training, along with any additional Mental Health related on-site training provided. Hours in excess of the counselor's regular weekly schedule, due to training, will be taken as comp time during the same week the hours were earned. Counselor's comp hours shall be facilitated between the counselors and the institutional substance abuse coordinator.
- e. The counselors shall only be on site during regular scheduled work hours, unless the Warden or his designee has given prior authorization.

B. CONTRACT TERM:

- B.1. Contract Term. This Contract shall be effective for the period commencing on **March 1, 2005** and ending on **February 28, 2010**. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract **exceed SIX HUNDRED FORTY TWO THOUSAND EIGHT HUNDRED TWELVE DOLLARS (\$642,812.00)**. The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The Service Rates and the Maximum Liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. The Contractor shall be compensated based on the Service Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor's compensation shall be contingent upon the satisfactory completion of units of service or project milestones defined in Section A. The Contractor shall be compensated based upon the following Service Rates:

<u>SERVICE UNIT/MILESTONE</u>	<u>Year 1 Rate</u>	<u>Year 2 Rate</u>	<u>Year 3 Rate</u>	<u>Year 4 Rate</u>	<u>Year 5 Rate</u>
License Substance Abuse Counselor per Hour	\$33.02	\$34.35	\$35.72	\$37.15	\$38.63
Nonlicensed Substance Abuse Counselor per Hour	\$27.84	\$28.95	\$30.11	\$31.31	\$32.57

The Contractor shall submit monthly invoices, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall be submitted for completed units of service or project milestones for the amount stipulated.

- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this contract, not to constitute proper remuneration for compensable services.
- C.7. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.8. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.
- D. STANDARD TERMS AND CONDITIONS:
- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.

- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least **sixty (60) days** written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract pertaining to "Conflicts of Interest" and "Nondiscrimination" (sections D.6. and D.7.). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Records. The Contractor shall maintain documentation for all charges against the State under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.9. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.10. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.11. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.12. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract

shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.

- D.13. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.14. Force Majeure. The obligations of the parties to this contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.
- D.15. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.16. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under **Tennessee Code Annotated**, Sections 9-8-101 through 9-8-407.
- D.17. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.18. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.19. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The State:

Bill Gupton, Director of Substance Abuse
Department of Correction
4th Floor, Rachel Jackson Bldg.
320 Sixth Avenue North
Nashville, TN 37243-0465
Telephone: 615-741-1000 ext. 4060
Fax: 615-532-3065

The Contractor:

Kenneth D. Robinson, President
Correctional Counseling, Inc.
3155 Hickory Hill Rd.
Memphis, TN 38115
Telephone: (901) 360-1564
Fax: (901) 365-6146

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. Annual Report and Audit. The Contractor shall prepare and submit, within nine (9) months after the close of the reporting period, an annual report of its activities funded under this Contract to the commissioner or head of the contracting agency, the Tennessee Comptroller of the Treasury, and the Commissioner of Finance and Administration. The annual report for any Contractor that receives five hundred thousand dollars (\$500,000) or more in aggregate federal and state funding for all its programs shall include audited financial statements. All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Contractor may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit contract between the Contractor and the licensed independent public accountant shall be on a contract form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the *Audit Manual for Governmental Units and Recipients of Grant Funds* published by the Tennessee Comptroller of the Treasury. The Contractor shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Contractor shall be subject to the provisions relating to such fees contained in the prescribed contract form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the State Contracting Department, the Tennessee Comptroller of the Treasury, and the Department of Finance and Administration and shall be made available to the public.
- E.5. Incorporation of Additional Documents. Included in this Contract by reference are the following documents:
- a. The Contract document and its attachments
 - b. All Clarifications and addenda made to the Contractor's Proposal
 - c. The Request for Proposal and its associated amendments
 - d. Technical Specifications provided to the Contractor
 - e. The Contractor's Proposal

In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these documents shall govern in order of precedence detailed above.

- E.6. Workpapers Subject to Review. The Contractor shall make all audit, accounting, or financial analysis workpapers, notes, and other documentation available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Contract.

- E.7. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, and entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for

influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

- E.8. Confidentiality of Records. Strict standards of confidentiality of records shall be maintained in accordance with the law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of State law and ethical standards and shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with State law and ethical standards.

The Contractor will be deemed to have satisfied its obligations under this section by exercising the same level of care to preserve the confidentiality of the State's information as the Contractor exercises to protect its own confidential information so long as such standard of care does not violate the applicable provisions of the first paragraph of this section.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.9. Date/Time Hold Harmless. As required by **Tennessee Code Annotated**, Section 12-4-118, the contractor shall hold harmless and indemnify the State of Tennessee; its officers and employees; and any agency or political subdivision of the State for any breach of contract caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort or otherwise process dates or times.
- E.10. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by **Tennessee Code Annotated**, Section 8-6-106.

- E.11. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in **Tennessee Code Annotated**, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System, provides that if a retired member returns to State employment, the member's retirement allowance is suspended during the period of the

IN WITNESS WHEREOF:

CORRECTIONAL COUNSELING, INC.:


Kenneth D. Robinson, President2/4/05
Date


DEPARTMENT OF CORRECTION:


Quenton I. White, Commissioner

Date

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:


M. D. Goetz, Jr., Commissioner

FEB 24 2005

Date

DEPARTMENT OF PERSONNEL:

N/A
Randy C. Camp, Commissioner

Date

COMPTROLLER OF THE TREASURY:


John G. Morgan, Comptroller of the Treasury2/28/05
Date